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<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>		Docket Number (Optional) OMRF 114 CIP(2)
First named inventor: John Harley		
Application No.:	07/867,819	Group Art Unit: 1813
Filed:	April 13, 1992	Examiner: A. Caputa
Title: METHODS AND REAGENTS FOR DIAGNOSIS OF AUTOANTIBODIES		
Mr. Randy Green, Director Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.		
The above-identified application became abandoned for failure to file a timely and proper reply to the Office action mailed on <u>December 2, 1996</u> , which set a <u>3</u> month/day period for reply. The abandonment date of this application is <u>March 2, 1997</u> (i.e., the day after the expiration date of the period set for reply plus any extensions of time obtained therefor).		
<u>PLEASE SEE ATTACHED PETITION</u>		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION		
NOTE: A grantable petition requires the following items: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Statement that the entire delay was unintentional.		
1. Petition fee <input checked="" type="checkbox"/> Small entity - fee \$640.00 (37 CFR 1.17(m)) <input type="checkbox"/> Small entity statement enclosed herewith. <input type="checkbox"/> Small entity statement previously filed. <input type="checkbox"/> Other than small entity - fee \$ (37 CFR 1.17(m))		
2. Reply and/or fee A. The reply and/or fee to the above-noted Office action in Adjustment date: 05/22/2002 GDUCKETT 0011255760 of <u>Amendment and Sequence Listing</u> (identify type of reply): 01/24/2002 AKELLEY 00000008 07867819 has been filed previously on _____ 01 FC:241 <u>\$640.00</u> <input checked="" type="checkbox"/> is enclosed herewith. B. The issue fee of \$ _____ <input type="checkbox"/> has been paid previously on _____ <input type="checkbox"/> is enclosed herewith.		

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Repln. Ref: 05/22/2002 GDUCKETT 0011255760  
DA# 501868 Name/Number: 07867819  
FC: 704 \$640.00 CR

Adjustment date: 05/22/2002 GDUCKETT 0011255760  
01/24/2002 AKELLEY 00000008 07867819  
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3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☒ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming a period equivalent to the number of months from the date of abandonment to the filing of this petition is enclosed herewith. SEE REQUEST FOR WAIVER

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Check box A, or check box B and/or C as applicable and include an explanation of the delay on a separate sheet or on supplemental sheet PTO/SB/64A.

☐ A This petition is filed within three months of the date the applicant was first notified, or otherwise became aware, that the application was abandoned and within one year of the date of abandonment of the application.

☒ B This petition is **not** filed within three months of the date the applicant was first notified, or otherwise became aware, that the application was abandoned. A detailed explanation of the cause of the delay in filing the petition is attached on a separate sheet or on supplemental sheet PTO/SB/64A.

SEE PREVIOUS PETITION FILED DECEMBER 1, 1998.

☒ C This petition is **not** filed within one year of the date of abandonment of the application. The applicant first became aware of the abandonment on \_\_\_\_\_. A detailed explanation of the delay in discovering the abandoned status of the application is attached on a separate sheet or on supplemental sheet PTO/SB/64A.

January 22, 2002

Date

Telephone  
Number: (404) 817-8473

Signature

Patrea L. Pabst

Typed or printed name

HOLLAND & KNIGHT LLP  
2000 One Atlantic Center

Address

1201 West Peachtree Street  
Atlanta, GA 30309-3400

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Small Entity Status Form

☒ Additional sheets containing statements establishing unintentional delay

☐ \_\_\_\_\_

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

HAND DELIVERED

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

January 22, 2002  
Date

Signature

Jean Hicks

Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John B. Harley

Serial No: 08/335,198

Art Unit: 1816

Filing date: November 7, 1994

Examiner: D. Saunders

For: ASSAYS AND TREATMENTS FOR AUTOIMMUNE DISEASES

Assistant Commissioner for Patents  
Washington, D.C. 20231

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**PETITION TO THE ASSISTANT COMMISSIONER  
FOR REVIVAL OF APPLICATION**

Sir:

Pursuant to 37 C.F.R. §§ 1.137(b), Applicants petition that the above-identified application be revived. This application went abandoned for failure to file an Amendment that was clearly in response to the Office Action mailed December 2, 1996, although a response was filed on December 2, 1996 to the telephone call from the examiner on November 27, 1996, which was believed to be fully responsive to the Office Action. No notice of any sort other than a notice of abandonment was received indicating the response filed on December 2, 1996, was insufficient. This application was abandoned as of March 2, 1997. A notice of abandonment was mailed October 31, 1997.

After repeated attempts over a period of a year during which the file was in the Abandoned Files and apparently could not be retrieved, and the undersigned's inquiries responded to, a petition for withdrawal of the notice of abandonment, or in the alternative, a petition to revive, was filed on December 1, 1998. This petition documented the undersigned's

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attempts to determine why the application had been abandoned, and to provide copies of the response that it was believed must not have been received. The undersigned was never able to get an answer from the examiner or the staff at the Patent Office, despite diligent attempts during this entire period.

The Petition to Withdraw Abandonment or in the alternative to Revive was not decided until May 16, 2000, following numerous attempts to get the Patent Office to act on the case.. The Decision stated that the file was to be returned to the Office of Petitions for decision on the petition to revive, but the files then was apparently lost. Despite numerous attempts to get the petition acted on, to locate the file and to reconstruct the file, it was not until January 14, 2002, that the new Director of Petitions was able to locate and review the file. This Petition follows.

It is the firm belief of the undersigned that a response to the non-final office action mailed December 2, 1996 was timely filed and that this application should not have gone abandoned. The undersigned hereby certifies that the entire delay in filing this revised petition has been inadvertant and unintentional and that the actions taken in trying to revive this application have been diligent. Waiver of the requirement for a Terminal Disclaimer is requested in view of the rather extraordinary history of this file, in which it has been lost or misplaced for most of the past five years.

To facilitate this prosecution, this petition is being made as a Petition to Revive for unintentional abandonment and the appropriate fee for this Petition is enclosed. It is believed that no additional fee is required for filing of this Petition. However, should a fee be required,

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the Commissioner is authorized to charge any required fees to Deposit Account No. 50-1868.

In view of the number of years since the response was filed on December 2, 1996, the changes in requirements for amendments to the specification and sequence listing, and additional comments in the decision on the Petition to Withdraw Abandonment, an amendment and Sequence Listing which are fully responsive to the office action mailed December 2, 1996, and the subsequent rule changes, is enclosed with this response.

Accordingly, this petition should be granted and the file returned to the examiner for consideration on the merits in view of the submission of the following:

- (1) a petition stating that the entire delay was unintentional;
- (2) the petition fee for a small entity;
- (3) A request that the requirement for a terminal disclaimer be waived in view of the extraordinary circumstances; and
- (4) an amendment and sequence listing fully responsive to the office action mailed December 2, 1996, and the rule changes subsequent thereto.

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A copy of the Power of Attorney to Holland & Knight which has been recently made of record in this case is enclosed.

Respectfully submitted,



Patrea L. Pabst  
Reg. No. 31,284

Dated: January 22, 2002  
Holland & Knight LLP  
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1201 W. Peachtree Street  
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